

REMARKS

Claims 1 – 27 are in the instant application. Claims 1, 3 and 5 are cancelled without prejudice to reduce the issues, and claims 2, 4, 6, 10, 11, 14 and 15 – 24 are amended to more positively recite various embodiments of applicants' patentable invention. No claims are allowed.

Claims 1 - 27 are subject to a restriction to the following groups: Group I claims, claims 1 – 25 drawn to a restraint, classified in class 428, subclass 304.4, and Group II claims, claims 26 and 27 drawn to a method of shipping articles, classified in class 206, subclass various. Applicants affirm the provisional election with traverse of Group I claims, claims 1 – 25 made by Attorney Andy Siminerio on 12/17/2002.

In support of the restriction requirement, the Office Action alleges that in the instant case, the product as claimed can be used in a materially different process of using that product such as one that mounts the edge portion of a glass sheet in a slot of the restraint so as to eliminate the step of placing the glass sheet on the base (U.S.P.N. 4,226,043). The position of the Office Action is not clear to applicants. Placing glass sheets in a slotted log of the type disclosed in U.S.P.N. 4,226,043 uses a different restraint system, one that includes top and bottom slotted logs to prevent sideward, forward and backward motion of the sheets during transport. The restraint recited in applicants' claims 1 – 25 would not be used by one skilled in the art of packing glass sheets with the restraint system of U.S.P.N. 4,226,043. Applicants respectfully submit that the reasoning for the restriction requirement is flawed and request withdrawal of the restriction requirement and consideration of claims 26 and 27.

Claims 10, 18 and 22 are rejected under 35 U.S.C. 112, second paragraph. The Office Action alleges that the foam density unit in claims 10, 18 and 22 is incorrect, and correction is required. Applicants respectfully traverse the rejection of claims 10, 18 and 22, however to eliminate this issue, claims 10, 18 and 22 are each amended to recite, among other things, that the foamed polyethylene is formed under a pressure of 3 to 9 pounds per square inch (0.2 kilograms/square meter to 0.6 kilograms/square meter). Support for the amendment to claims 10, 18 and 22 is found, among other places, on page 6, line 25, to page 7, line 9, of the specification.

Based on the foregoing, applicants respectfully request admittance of the amendments to, and consideration of, claims 10, 18 and 22, and withdrawal of the rejection of claims 10, 18 and 22 under 35 U.S.C. 112, second paragraph.

Claims 1, 3, 6, 11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Insley U.S.P.N. 5,025,865 (hereinafter also referred to as "Insley").

Applicants respectfully traverse the rejection of claims 1, 3, 6, 11, and 14 under 35 U.S.C. 102(b) as being anticipated by Insley; however to reduce the issues the following action is taken. Claims 1 and 3 are cancelled without prejudice, and claims 6, 11 and 14 are amended to be dependent on claim 2. Support for the amendment to claims 6, 11 and 14 is found, among other places, in the originally filed claims. Claim 2 was not rejected as being anticipated by Insley; therefore, the subject matter of claims 6, 11 and 14 dependent on claim 2 is not anticipated by Insley.

Based on the foregoing, applicants respectfully request admittance of the amendments to, and consideration of, claims 6, 11 and 14 and withdrawal of the rejection of claims 6, 11, and 14 under 35 U.S.C. 102(b) as being anticipated by Insley.

Claims 1 –14, and 16 – 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Maurice U.S.P.N. 5,024,865 (hereinafter also referred to as "Maurice"). Applicants respectfully traverse the rejection of claims 1 – 14, and 16 – 21 under 35 U.S.C. 102(b) as being anticipated by Maurice; however, to reduce the issues the following action is taken. Claims 1, 3 and 5 are cancelled without prejudice, and claims 2, 4, 6, 10, 11, 14, and 16 – 21 are amended to more positively recite applicants' patentably novel restraint. More particularly, claims 4 and 6 – 14 are directly or indirectly dependent on claim 2, and claims 17 – 21 are directly or indirectly dependent on claim 16. Support for the amendments to claims 2, 4, 6, 10, 11, 14 and 16 –21 is found, among other places, in the originally filed claims and the drawing. Based on the foregoing, applicants respectfully request admittance of the amendments to claims 2, 4, 6, 10, 11, 14 and 16 – 21 and consideration of claims 2, 4, 6 – 14 and 16 – 21.

Independent claims 2 and 16 each recite, among other things, in one form or another, that the second surface of the second layer (claim 2) and the first major surface of the outer layer (claim 16) each have an attachment member. The attachment member in claim 20 dependent on claim 16 includes a raised portion having a strap retainer portion. There is no disclosure in Maurice of a sheet retainer having a vertex and an attachment member. More particularly, the cushioning blocks 16 and 18 do not have an attachment.

Based on the foregoing, applicants respectfully request withdrawal of the rejection of claims 2, 4, 6 – 14, and 16 – 21 under 35 U.S.C. 102(b) as being anticipated by Maurice.

Claims 1, 3, 6 – 9, 11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lastik U.S.P.N. 4,225,043 (hereinafter also referred to as "Lastik"). Applicants respectfully traverse the rejection of claims 1, 3, 6 – 9, 11 and 14 under 35 U.S.C. 102(b) as being anticipated by Lastik, however, to eliminate issues claims 1 and 3 are cancelled without prejudice, and claims 6, 11 and 14 are amended to be dependent on claim 2. Support for the amendment to claims 2, 6, 11 and 14 is found, among other places, in the originally filed claims. Based on the foregoing, applicants respectfully request admittance of the amendment to claims 2, 6, 11 and 14, and reconsideration of claims 6 – 9, 11 and 14.

Claim 2 on which claims 6 – 9, 11 and 14 are dependent was not rejected as being anticipated by Lastik. Based on the foregoing, applicants respectfully request withdrawal of the rejection of claims 6 – 9, 11 and 14 under 35 U.S.C. 102(b) as being anticipated by Lastik.

Claims 1 – 3, 6, 7, 11, 14 and 23 – 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Moehring U.S.P.N. 3,938,660 (hereinafter also referred to as "Moehring"). Applicants respectfully traverse the rejection of claims 1 – 3, 6, 7, 11, 14 and 23 – 25 under 35 U.S.C. 102(b) as being anticipated by Moehring, however, to eliminate issues the following action is taken. Claims 1 and 3 are cancelled without prejudice to eliminate issues. Claims 2, 6, 11 and 14 are amended to more positively recite applicants' patentably novel restraint by, among other things, presenting claim 2 as an independent claim having claims 6, 7, 11 and 14 dependent on claim

2. Claims 23 and 24 have been amended; claims 24 and 25 are dependent on claim 23. Support for the amendment to claims 2, 6, 11, 14, 23 and 24 is found, among other places, in the originally filed claims and in the drawing. Based on the foregoing, applicants respectfully request admittance of the amendment to claims 2, 6, 11, 14, 23 and 24, and reconsideration of claims 2, 6, 7, 11, 14 and 23 – 25.

Independent claims 2 and 23 each recite, among other things, in one form or another, a laminated restraint having an attachment member mounted on of the laminated restraint. Moehring discloses a securing system that includes a pad 50 on which a tubular runner is positioned. There is no disclosure in Moehring of a laminated restraint having an attachment member. Further, claims 2 and 23 each include, among other things, in one form or another the subject matter of cancelled claim 5. Claim 5 was not rejected as being anticipated by Moehring.

Based on the foregoing, applicants respectfully request withdrawal of the rejection of claims 2, 6, 7, 11, 14 and 23 – 25 under 35 U.S.C. 102(b) as being anticipated by Moehring.

Claims 4, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moehring. Applicants respectfully traverse the rejection of claims 4, 16 and 21 under 35 U.S.C. 103(a) as being unpatentable over Moehring and requests reconsideration thereof. Claim 4 is now dependent on claim 2; claim 21 is dependent on claim 16. Claims 2, 4, 16 and 21, and Moehring were discussed above. Further to the discussion regarding claim 16, claim 16 like claim 2 recites, among other things, in one form or another the attachment recited in cancelled claim 5. Claim 5 is not rejected as being anticipated by, and/or unpatentable over, Moehring.

Applicants have shown above that Moehring does not anticipate applicants' claims 2 and 16 because the claims recite, among other things, an attachment. Moehring does not disclose a laminated restraint having an attachment, and therefore has inadequate disclosure to render claims 4, 16 and 21 unpatentable.

Based on the above, Applicants respectfully request withdrawal of the rejection of claims 4, 16 and 21 under 35 U.S.C. 103(a) as being unpatentable over Moehring.

Claims 1 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moehring in view of Maurice. Applicants respectfully traverse the rejection of claims 1 – 22 under 35 U.S.C. 103(a) as being unpatentable over Moehring in view of Maurice; however to reduce the issues claims 1, 3 and 5 are cancelled without prejudice, and claims 2, 4, 6, 10, 11, 14, 15 and 16 – 22 are amended to more positively recite various embodiments of applicants' invention. Claims 4 and 6 – 15 are dependent on claim 2; claims 17 – 21 are dependent on claim 15, and claim 22 is an independent claim.

Regarding claims 4, 16 and 21, the Office Action alleges that it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the restraint having a vertex and a groove as taught in Maurice motivated by the desire to increase the conformity, thereby increasing the margin of safety on impact of fragile articles during transport. Amended claim 4 recites, among other things, a groove between two segments laminated to a second layer. Claim 21 recites, among other things, adjacent ends of first and second legs are spaced from one another, and the vertex includes a groove in the first surface of the outer layer. There is no disclosure in Maurice and/or Moehring of a laminate restraint having a groove between two segments or legs as recited in applicants' claims 4 and 21. There is no disclosure in Maurice of an attachment member as recited in applicants' claim 21.

With regard to claims 8 – 14, 17 – 19, the Office Action alleges that Maurice discloses the foam made of polyethylene, polyurethane. Claims 8 – 14 are dependent on claim 2, claims 17 – 19 are dependent on claim 16. Assuming that the reading of Maurice by the Office Action is accurate, applicants respectfully submit that Maurice does not render claims 2 and 16 obvious because there is no disclosure in Maurice as recited in applicants' claims 2 and 16 of a laminated restraint having an attachment member.

With regard to claim 15, the Office Action alleges that Moehring teaches the raised portion having a slot 54 (Figures 4 and 5 of Moehring). Claim 15 is dependent on claim 2. Applicants respectfully submit that even if the reading of Moehring by the Office Action is accurate, Moehring does not

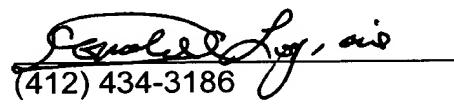
render Applicants' claim 2 and 15 obvious because there is no disclosure in Moehring of a laminated restraint having an attachment member.

Based on the foregoing, applicants respectfully request withdrawal of the rejection of Claims 2, 4 and 6 – 22 under 35 U.S.C. 103(a) as being unpatentable over Moehring in view of Maurice and request allowance of claims 2, 4, and 6 – 25.

This amendment represents a sincere effort to place the application in condition for allowance. In the event issues remain, the Examiner is invited to call the undersigned to discuss those issues before further action is taken on the case.

Respectfully submitted,

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Pittsburgh, Pennsylvania
April 25, 2003